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OFFICE OF PETITIONS

In re Application of :  
Certa, et al. :  
Application No. 10/735,973 : ON PETITION  
Filed: December 15, 2003 :  
Attorney Docket No. 21507 :

This is a decision on the petition filed May 18, 2004, requesting that the above-identified application be accorded a filing date of December 15, 2003.

The application was deposited on December 15, 2003. However, on March 17, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" which stated a filing date was not accorded and that the application was deposited without drawings.

In response, on May 18, 2004, the instant petition was filed.

Petitioner states the drawings were inadvertently omitted upon filing, but that "the drawings are not necessary under 35 U.S.C. 113 for an understanding of the subject matter sought to be patented. It is noted that the petition contains a statement that drawings are not necessary for an understanding of the subject matter and the petition is signed by a registered practitioner.

Additionally, it is noted that the nonprovisional application contains a process claim that includes the term "method" in its introductory phrase and therefore drawings are not required.

MPEP 608.02 states:

"An OIPE formality examiner should not treat an application without drawings as incomplete if drawings are not required. A drawing is not required for a filing date under 35 U.S.C. 111 and 113 if the application contains:

(A) at least one process claim including the term "process" or "method" in its introductory phrase;

Since the claims contain at least one process claim including the term "process" or "method" in its introductory phrase, drawings are not required in order to accord a filing date.

Accordingly, the petition is granted.

As the instant petition was required to accord the requested filing date, the petition fee will not be refunded.

The application will be returned to the Office of Initial Patent Examination for processing with a filing date of December 15, 2003, with zero (0) drawings received on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.



Edward J. Tannouse  
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